

MONTANA CODE ANNOTATED

TITLE 50. HEALTH AND SAFETY CHAPTER 6. EMERGENCY MEDICAL SERVICES

Part 3. Ambulance Service Licensing

50-6-301. Findings. The legislature finds and declares that:

- (1) the public welfare requires the establishment of minimum uniform standards for the operation of emergency medical services;
- (2) the control, inspection, and regulation of persons providing emergency medical services is necessary to prevent or eliminate improper care that may endanger the health of the public; and
- (3) the regulation of emergency medical care services is in the interest of the social well-being and the health and safety of the state and all its people.

50-6-302. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

- (1) "Aircraft" has the same meaning given in 67-1-101. The term includes any fixed-wing airplane or helicopter.
- (2)
 - (a) "Ambulance" means a privately or publicly owned motor vehicle or aircraft that is maintained and used for the transportation of patients.
 - (b) The term does not include:
 - (i) a motor vehicle or aircraft owned by or operated under the direct control of the United States; or
 - (ii) air transportation services, such as charter or fixed-based operators, that are regulated by the federal aviation administration and that offer no special medical services or provide only transportation to patients or persons at the direction or under the supervision of an independent physician.
- (3) "Department" means the department of public health and human services provided for in 2-15-2201.
- (4) "Emergency medical service" means a prehospital or interhospital emergency medical transportation or treatment service provided by an ambulance or nontransporting medical unit.
- (5) "Medical control" means the function of a licensed physician in providing direction, advice, or orders to an emergency medical service provider.
- (6) "Nontransporting medical unit" means an aggregate of persons who are organized to respond to a call for emergency medical service and to treat a patient until the arrival of an ambulance. Nontransporting medical units provide any one of varying types and levels of service defined by department rule but may not transport patients.

(7) "Offline medical director" means a physician who is responsible and accountable for the overall medical direction and medical supervision of an emergency medical service and who is responsible for the proper application of patient care techniques and the quality of care provided by the emergency medical services personnel. The term includes only a physician who volunteers the physician's services as an offline medical director or whose total reimbursement for those services in any 12-month period does not exceed \$5,000.

- (8) (a) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.
- (b) The term does not include an individual who is nonambulatory and who needs transportation assistance solely because that individual is confined to a wheelchair as the individual's usual means of mobility.

(9) "Person" means an individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including a governmental agency other than the United States.

50-6-304. Cooperative agreements -- gifts, grants, and donations.

- (1) The department may enter into cooperative agreements with any of the state agencies or political subdivisions for the purpose of carrying out the provisions of this part.
- (2) The department may accept and administer any gift, grant, or donation of funds to carry out the purposes of this part.

50-6-306. License required.

- (1) A person may not conduct or operate an emergency medical service without first obtaining a license from the department. A separate license is required for each type and level of service.
- (2) Applications for a license must be made in writing to the department on forms specified by the department.
- (3) Each license must be issued for a specific term not to exceed 2 years. Renewal may be obtained by paying the required license fee and demonstrating compliance with department rules.
- (4) The license is not transferable.

50-6-307. License fee.

- (1) There must be paid to the department, with each application for a license or for renewal of a license, a license fee of \$35.
- (2) The department shall deposit fees with the state treasurer to the credit of the state general fund.
- (3) Payment of the license fee stipulated in this part must be accepted in lieu of any and all

existing state fees and charges for like purposes or intent which may be existent prior to the adoption of this part.

50-6-308. Cancellation of license. The department may cancel a license if it finds that the licensee has:

- (1) violated any provision of this part or any rule of the department or order of the department; and
- (2) failed or refused to remedy or correct the violation.

50-6-310. Notice and hearing required.

- (1) The department may not deny or cancel a license without:
 - (a) delivery to the applicant or licensee of a written statement of the grounds for the denial or cancellation or the charge involved;
 - (b) an opportunity to answer at a hearing before the department to show cause, if any, why the license should not be denied or canceled.
- (2) The licensee shall make written request to the department for a hearing within 10 days after notice of the grounds or charges has been received.

50-6-311. Return of license for destruction or deletion. On cancellation of a license, the license certificate shall be returned to the department for destruction or deletion as the department may direct in its notice of cancellation.

50-6-313. Inspections.

- (1) The department shall make necessary investigations and inspections for enforcement of this part.
- (2) The department shall make regular inspections as the rules of the department may direct and special inspections which it considers necessary.
- (3) The department has free access at all reasonable hours to the place of business of any person operating an emergency medical service in order to make necessary inspections. These inspections may include the inspection of any equipment or records pertaining to the activities of the emergency medical service.
- (4) A person may not refuse entry or access to an authorized representative of the department who presents appropriate credentials and requests entry for the purpose of conducting an inspection necessitated under this section. A person may not obstruct, hamper, or interfere with an inspection that is properly conducted pursuant to this section.
- (5) Upon request, the owner or operator of an emergency medical service must receive a report stating all facts that relate to his compliance with the provisions of this part as determined by the department, based upon its inspection.

50-6-314. Authority of department to compel and take testimony. In any proceeding under this part, the department may administer oaths, issue subpoenas, summon witnesses, and take testimony of any person within the state.

50-6-315. County attorney to prosecute violations. When the department furnishes evidence to the county attorney of a county in this state, the county attorney shall prosecute any person violating this part or any rule of the department or order issued by the department.

50-6-316. Criminal and civil penalties.

- (1) Any person violating any provision of this part or any rule of the department or order issued by the department is guilty of a misdemeanor and upon conviction shall be fined not less than \$50 or more than \$100 for the first offense, not less than \$75 or more than \$200 for the second offense, and for third and subsequent offenses, not less than \$200 or more than \$500 or imprisoned in the county jail not to exceed 90 days.
- (2) A person who violates any provision of this part or any rule of the department or order issued by the department is subject to a civil penalty not to exceed \$1,000 for each violation. Each day of violation constitutes a separate violation.

(3) An action commenced under subsections (2) through (6) does not bar administrative enforcement of this part as provided in 50-6-327 or an injunction as provided in 50-6-326.

(4) If the department has reason to believe that a person has violated any provision of this part or any rule of the department or order issued by the department, it shall bring an action in the name of the state against the person to impose, assess, and recover the civil penalties as provided in subsection (2).

(5) Any civil penalty collected under subsections (2) through (6) is in lieu of the criminal penalty provided for in subsection (1).

(6) All penalties collected under subsections (2) through (5) must be transmitted to the state treasurer for deposit in the state general fund.

50-6-317. Liability protection.

- (1) A physician or registered nurse licensed under the laws of this state who gives instructions for medical care to a member of an emergency medical service without compensation or for compensation not exceeding \$5,000 in any 12-month period and whose professional practice is not primarily in an emergency or trauma room or ward is not liable for civil damages for an injury resulting from the instructions, except damages for an injury resulting from the gross negligence of the physician or nurse, if the instructions given by the physician or nurse are:
- (a) consistent with the protocols and the medical control plan approved by the department in licensing the emergency medical service; and
 - (b) consistent with the level of certification or licensure of the emergency medical services personnel instructed by the physician or nurse.

(2) An offline medical director is not liable for civil damages for an injury resulting from the performance of his duties, except damages for an injury resulting from the gross negligence of the director.

50-6-323. Powers and duties of department.

(1) The department has general authority to supervise and regulate emergency medical services in Montana.

(2) The department shall receive and investigate complaints relating to the operation of any emergency medical service, including complaints concerning:

- (a) patient care provided by an emergency medical service;
- (b) the condition of any vehicle or aircraft used as an ambulance; or
- (c) individual performance by an emergency medical service provider.

(3) Upon completion of an investigation as provided in subsection (2), the department shall take appropriate action, including the institution of necessary legal proceedings, as authorized under this part.

(4) In order to carry out the provisions of this part, the department shall prescribe and enforce rules for emergency medical services. Rules of the department may include but are not limited to the following:

- (a) the classification and identification of specific types and levels of prehospital and interhospital medical transportation or treatment services;
- (b) procedures for issuing, denying, renewing, and canceling licenses;
- (c) minimum licensing standards for each type and level of service, including requirements for personnel, medical control, maintenance, equipment, reporting, recordkeeping, sanitation, and minimum insurance coverage as determined appropriate by the department; and
- (d) other requirements necessary and appropriate to assure the quality, safety, and proper operation and administration of emergency medical services.

(5) A rule under this section is not effective until:

- (a) a public hearing has been held for review of the rule; and
- (b) notice of the public hearing and a copy of the proposed rules have been sent to all persons licensed under 50-6-306 to conduct or operate an emergency medical service. Notice must be sent at least 30 days prior to the date of the public hearing.

50-6-324. Advisory committee.

(1) The department may establish an advisory committee to assist in making determinations regarding:

- (a) a request for waiver of licensing requirements as provided in 50-6-325;
- (b) the resolution of a complaint as described in 50-6-323; and
- (c) issuance of an order authorized under this part.

(2) The advisory committee must be established pursuant to rules adopted by the department.

50-6-325. Waiver of licensing requirements.

- (1) The department may waive any licensing requirements under this part upon submission and approval of a written application for waiver by a person subject to licensing under this part.
- (2) The department may waive a licensing requirement if the person provides sufficient justification to allow a finding by the department that:
 - (a) the waiver is necessary to avoid significant financial or other hardship; and
 - (b) granting the waiver would not jeopardize patient care or the public health and safety.
- (3) A waiver must be issued on a temporary basis, not exceeding 6 months, and may be renewed by the department upon submission and approval of an additional application for waiver of licensing requirements.
- (4) A waiver granted by the department may be revoked for good cause after notice and an opportunity for a hearing before the department have been provided to the person affected by the department's action.

50-6-326. Injunction to require compliance.

- (1) The department may seek an injunction from an appropriate district court to require compliance with this part or to require compliance with a rule of the department or an order issued by the department. The court to which the department applies for an injunction may issue a temporary restraining order if there is reasonable cause to believe that the allegations of the department are true.
- (2) An action for injunctive relief initiated by the department pursuant to subsection (1) may be commenced in the district court of the county in which the defendant is located, resides, or is doing business. If the defendant cannot be located in Montana, the action may be commenced in the county where the violation is alleged to occur or have occurred, and the court has jurisdiction to restrain the violation and require compliance.

50-6-327. Administrative enforcement.

- (1) If the department believes that there is a violation of this part or a violation of a rule of the department, it may serve notice of the violation upon the alleged violator or the alleged violator's agent. Service of notice must be by certified mail and is complete on the date of mailing.
- (2) Notice required under subsection (1) must:
 - (a) specify the provision of this part or the rule alleged to be violated;
 - (b) contain a statement of the facts alleged to constitute a violation; and
 - (c) include an order that the alleged violator take necessary corrective action within a reasonable period of time as stated in the order. The order may include corrective action, such as decertification of a specific vehicle or aircraft from use as an ambulance or restriction on the use of a specific individual or type of or level of service in providing emergency medical service.

(3) An order issued pursuant to subsection (2) becomes final unless the person named in the order requests a hearing before the department. The request for a hearing must be made in writing to the department at least 30 days after the date of service of notice of an alleged violation. On receipt of the request, the department shall schedule a date for a hearing.

(4) If, after a hearing, the department finds that a violation has occurred, it shall either affirm or modify the corrective action order. An order issued by the department after hearing may prescribe the date by which the violation must cease and may prescribe time limits for corrective action. If, after a hearing, the department finds a violation has not occurred, it shall rescind the corrective action order.